REMARKS

Claims 46-75 are currently pending in the captioned application, including independent claims 46 and 61. For instance, independent claim 46 is directed to a process for agglomerating biologically active microorganisms. Specifically, the process includes contacting a first enteropathogenic microorganism with a first particle having an average diameter between about 30 nanometers and about 5 micrometers. The first particle comprising a hydrophobic polymeric core and multiple hydrophilic polymeric linking agents bound to the hydrophobic polymeric core, the hydrophilic linking agents having a degree of polymerization of between about 10 and about 200. The particle also includes a biofunctional material bound to the hydrophilic linking agents. Specifically, the biofunctional material is bound to the hydrophilic linking agent at a distance from the hydrophobic core, i.e., not at the surface of the hydrophobic core.

The biofunctional material includes a first binding site for a first adhesin present on the surface of the enteropathogenic microorganism. Thus, the method also includes binding the first adhesin of the first enteropathogenic microorganism to the first binding site of the biofunctional material to form a particle/microorganism complex.

The method also includes binding a second adhesin of a second enteropathogenic microorganism to a second binding site of the biofunctional material of the particle/microorganism complex. Thus, according to the process, the first and second enteropathogenic microorganisms are agglomerated.

With regard to the previous restriction requirements, new dependent claims 70-75 have been added corresponding to specific materials discussed in previous papers. It is Applicants understanding that the independent claims are not limited to the specific materials of these dependent claims, as dependent claims further limit the independent claim from which they depend.

In the Office Action, claims 46-69 were rejected under 35 U.S.C. 103(a) as being unpatentable over Franzen, et al. (U.S. Patent Application Publication 2003/0147966).

Franzen, et al. is directed to a nanoparticle delivery vehicle for delivery of an active agent to and into cells, and specifically, proteins, nucleic acids, protein and nucleic acid analogs, small molecules and other compounds to the surface of a cell, into the cytoplasm or a cell, or into a cell's nucleus (p. 1, ¶[0003]). Contrary to the pending claims, however, Franzen, et al. does not disclose or suggest the agglomeration of pathogenic microorganisms.

Moreover, Applicants respectfully submit that Franzen, et al. cannot properly be considered a prior art reference under 35 U.S.C. §102. Franzen, et al. has a filing date of July 10, 2002 and claims filing benefit of U.S. Provisional Application Serial No. 60/304,236, filed on July 10, 2001. As described in the accompanying declaration, the inventions of the pending claims were conceived of prior to July 10, 2001, and the inventors thereof continued to diligently develop the concepts of the invention. Evidence of the previous invention of the claimed processes and development work can be found at the Appendices of the accompanying declaration.

For at least these reasons, Applicants respectfully request withdrawal of this rejection.

In the Office Action, claims 46-69 were rejected under 35 U.S.C. §112, second paragraph. With no comment as to the appropriateness of the rejection, the pending claims have been amended to clearly state that the process claims describe a process for agglomerating microorganisms that includes agglomerating at least a first and second enteropathogenic microorganism. Specifically, the agglomeration of a first and second microorganism, as described in the claims, constitutes agglomerating microorganisms as is found in the preamble of the claims. Additionally, the particles have been defined to have an average diameter of between about 30 nanometers and about 5 micrometers.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Audet is invited and encouraged to telephone the undersigned, however, if any issues remain after consideration of this response.

Please charge any additional fees required by this Response to Deposit Account No. 04-1403.

Respectfully submitted,

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1/30/09 BY:

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